

the catalyzing reaction that takes place by the introduction of sulfuric acid to the slurry. This is a distinguishing feature of applicant's invention wherein the remaining sodium sulfate acts as a catalyst for the formation of the carbonaceous crystals that characterize the internal crystalline structure of the cementitious matrixes. See applicant's specification at page 5, lines 26-27 and at page 1, lines 1-5.

In contrast to applicant's claimed invention, both Jaques et al. and Iwu wash their materials multiple times. See Iwu, column 1, lines 52-57 and Jaques et al., column 5, lines 19-23. In Jaques et al. and Iwu teach washing of the slurry four times.

Further, Iwu, in column 1, line 25, teaches away from use of sulfuric acid because Iwu gets chloride from hydrochloric acid and does not get catalyzing sodium sulfate, as provided in applicant's claims.

With respect to Jaques et al., that patent "digests" silica ore without mentioning pH, mention of any sodium hydroxide, or sodium sulfate formation.

In addition, neither Jaques et al. nor Iwu teaches the step of pulverizing bauxite tailings or pulverizing bauxite tailings into a generally homogenous powder sufficiently fine to generally pass through a 16 mesh screen, as provided in applicant's claims. Jaques et al. also does not teach the addition of the bauxite tailings as water is added to the tailings. See also applicant's specification at page 2, lines 26-27; page 3, lines 1-27 and page 4, lines 1-9.

Infringement is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Verdegaal Bros. v Union Oil Co. of California, 814 F.2d. 628, 631, 2 USPQ 2d. 1051, 1053 (Fed. Cir. 1987) and MPEP §2105. A prior art reference must be shown in as complete detail as is contained in the claim.

Suzuki Motor Company, 868 F.2d 1226, 1236, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989), 1990 PEP §2131.

Establish prima facie obviousness of a claimed invention, all the claim limitations must be disclosed or suggested by the prior art. See In re Royka, 490 F.2d 981, 180 USPQ 580 (Ct. Cl. 1973). All words in a claim must be considered in judging the patentability of that claim over the prior art. See In re Wilson, 424 F.2d 1382, 165 USPQ 494, 496 (CCPA 1970), and 35 USC 103.

If an independent claim is non-obvious under 35 USC 103, then any claim depending from it is non-obvious. See In re Fine, 837 F.2d 1071, 5 USPQ 2d 1596 (Fed. Cir. 1988), 35 USC 103.

For the reasons stated above, reconsideration of this application and allowance of new claims is respectfully requested.

Respectfully submitted,



Donald A. Kettlestrings
Attorney for Applicant
Registration No. 24,573
414 Hungerford Drive, Suite 211
Rockville MD 20850
301-279-7577

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office. Fax No. (571) 273-8300 on 9/30/05

Donald A. Kettlestrings

